

REMARKS/ARGUMENTS

The present communication responds to the Office Action dated October 19, 2005. In a prior response, the Applicants elected the invention of Group I comprising claims 1-9 of the then pending claims 1-24. Claims 10-24 were withdrawn from consideration.

In the present Office Action, the Examiner has objected to claims 6-9 because of informalities and has noted an interpretation of the term “items” used in those claims. The Examiner has rejected claims 1 and 2 under 35 U.S.C. § 112, first paragraph. The Examiner further rejected claims 1-9 under 35 U.S.C. § 102(b).

The Applicants have herewith amended claims 1-9 and add claims 25-30. No new matter has been added by these amendments. In view of the amendments and the following remarks, the Applicants respectfully request reconsideration and allowance of the pending claims.

Claim Objections

Claims 6-9 were objected to with the Examiner asserting that it is unclear what is meant by “the use of helping the human deal with discharged body fluids.” In light of the Applicants’ amendments to claims 6-9, it is respectfully submitted that pending claims 6-9 are now in condition for allowance.

Claim Language Interpretation

The Examiner interpreted the term “items,” as recited in claims 6-9, to include a plurality or more than one item. The Applicants have presently amended claims 6-9 to recite “one or more items” in replace of the term “items.”

Claim Rejections Under 35 U.S.C. § 112, First Paragraph

The Examiner rejected claims 1 and 2 under 35 U.S.C. § 112, first paragraph, asserting that the specification does not reasonably provide enablement for the “miscarriage kit.” In light of the Applicants’ amendments to claims 1 and 2, the Applicants respectfully request reconsideration and allowance of the pending claims.

Specifically, the Applicants have amended claim 1 to recite the kit comprises “at least one under pad/bed liner; at least one sanitary napkin; at least one towel; at least one pair of

gloves; at least one specimen pan; and at least one container for holding pregnancy remains.” The Applicants have further amended claim 2 to recite the kit comprises “a specimen pan, wherein the specimen pan is configured to fit inside the rim of a toilet and further includes an upper rim configured to allow the upper rim to rest atop the toilet rim.” Thus, claims 1 and 2 are in condition for allowance.

Claim Rejections Under 35 U.S.C. § 102(b)

Claims 1-9 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,917,238 to Schumacher (hereinafter “Schumacher”). A rejection under § 102 requires that each and every limitation of the claimed invention be disclosed in a single prior art reference. In other words, there must be no difference between the claimed invention and the prior art reference disclosure as viewed by a person of ordinary skill in the art. Therefore, this rejection is traversed for at least the following reasons.

Claim 1 is Not Anticipated by Schumacher

Claim 1, as amended, is directed to a miscarriage kit comprising, in part, “at least one under pad/bed liner.”

Schumacher does not disclose, teach, or suggest a miscarriage kit comprising at least one under pad/bed liner. Rather, Schumacher discloses a waste cleanup kit comprising a box and a plurality of kit contents. (*Schumacher, Abstract*). The kit contents include:

[A]n absorbent material, a disinfectant and a scoop for scooping up waste material and a scraper for scraping waste material from a surface. The contents further include at least one glove . . . an absorbent towel . . . a germicidal handwipe and a plastic bag.
(*Schumacher, Abstract*).

Claim 1, as amended, recites “at least one underpad/bed liner.” Paragraph [0050] of the present application explains:

In one embodiment, the package 10 contains underpad/bed-liners 14 as depicted in FIG. 2. The bed-liners 14 may vary in material, size, shape, color and absorbency. In one embodiment, the bed-liner 14 is a disposable underpad/bed-liner that is 26” x 36”.

In Paragraph [0051], the Applicants further explain the usefulness of the underpads/bed liners:

In one embodiment, the miscarriage care package 10 will include a quantity of fifteen underpads/bed-liners 14. In other embodiments, the package 10 will have a greater or lesser number of underpads/bed-liners 14. The underpads/bed-liners 14 may be used in any number of ways and in any manner in which the woman or caregiver feels helpful, but is intended to assist in keeping the woman's surroundings sanitary by absorbing bodily fluids. For example, the underpad/bed-liners 14 are useful where a woman chooses to miscarry in a bed, chair, sofa or other physical surroundings. The bed-liner 14 helps to reduce worries about blood or fluid soaked bedding or fabrics and the discomfort of washing or cleaning these after miscarriage.

Schumacher does not teach, at all, a miscarriage kit comprising, in part, "at least one under pad/bed liner."

Thus, Schumacher fails to disclose, teach, or suggest the invention of claim 1. Accordingly, reconsideration and withdrawal of the anticipation rejection of pending claim 1 based on Schumacher is respectfully requested.

Claim 2 is Not Anticipated by Schumacher

Claim 2, as amended, is directed to a kit for use with a miscarriage by a human. The kit of claim 2 includes "a specimen pan, wherein the specimen pan is configured to fit inside the rim of a toilet and further includes an upper rim configured to allow the upper rim to rest atop the toilet rim."

Schumacher does not disclose, teach, or suggest a miscarriage kit comprising "a specimen pan, wherein the specimen pan is configured to fit inside the rim of a toilet and further includes an upper rim configured to allow the upper rim to rest atop the toilet rim," as recited by claim 2, as amended. As discussed above, Schumacher discloses a waste cleanup kit comprising a box and a plurality of kit contents. (*Schumacher, Abstract*). Schumacher does not disclose the plurality of kit contents include a specimen pan configured to fit inside the rim of a toilet and further include an upper rim configured to allow the upper rim to rest atop the toilet rim, as recited in the Applicants' claim 2. Rather, Schumacher discloses a scoop 80 and a scraper 90:

Finally, the contents of the kit 10 include a scoop 80 and a scraper 90. Scoop 80 is shown in a partially collapsed state in FIG. 3. (*Schumacher, col. 3, ll. 33-35*).

The scoop of Schumacher is designed to fit inside the interior of the content box and form a content chamber that is configured to hold the remaining kit contents:

So formed, scoop 80 forms a completed scoop with a generally rectangular configuration with bottom plate 81 dimensioned to be approximate to the surface area of opening 26 of box 10 . . . Accordingly, scoop 80 may be inserted within box interior 20 . . . Box bottom plate 18, sidewalls 82, 83 and 85 and bottom wall 81 cooperate to define a content receiving chamber sized to receive contents 50-59, 64 and 70. (*Schumacher, col. 3, ll. 46-49; col. 3, ll. 52-53; col. 3, ll. 58-61*).

The scoop 80 is designed for the purpose of forming a content chamber with box 10, not configured to fit inside the rim of a toilet.

Furthermore, the scoop 80 disclosed in Schumacher is configured to be used in conjunction with the supplied scraper 90 to pick up waste material:

[T]he operator grasps scoop 80 and scraper 91 in opposing hands and scrapes the absorbent and waste material into scoop 80. (*Schumacher, col. 4, ll. 24-26*).

In contrast, the Applicants claim “a specimen pan, wherein the specimen pan is configured to fit inside the rim of a toilet and further includes an upper rim configured to allow the upper rim to rest atop the toilet rim.” Paragraphs [0052] and [0053] of the present application explain:

In one embodiment, the package 10 contains a specimen pan 16 . . . The specimen pan 16 is made from a durable material (e.g., plastic, rubber or metal) and is shaped to fit inside the rim of a standard toilet . . .

In one embodiment, the pan 16 has a triangular top configured to allow the pan 16 to fit atop the toilet rim.

In Paragraph [0054], the Applicants further explain the purpose of the specimen pan:

The specimen pan 16 assists in collecting and/or calculating blood or other bodily fluid loss for recording purposes. Fluid loss must be monitored and recorded to determine whether safe limits have been exceeded. The specimen pan 16 can also be used to collect tissue and/or fetal remains, sparing the additional trauma of retrieving fetal remains from an unsanitary toilet.

The scoop and scraper of Schumacher do not comprise “a specimen pan, wherein the specimen pan is configured to fit inside the rim of a toilet and further includes an upper rim configured to allow the upper rim to rest atop the toilet rim,” as recited by claim 2, as amended.

Thus, Schumacher fails to disclose, teach, or suggest the invention of claim 2. Accordingly, reconsideration and withdrawal of the anticipation rejection of pending claim 2 based on Schumacher is respectfully requested.

Claims Depending on Claim 2 are Not Anticipated by Schumacher

Claims 3-9, which depend directly from claim 2, incorporate all the limitations of claim 2 and are, therefore, also not anticipated by Schumacher. Accordingly, reconsideration and withdrawal of the anticipation rejection of pending claims 3-9 based on Schumacher is respectfully requested.

CONCLUSION


In light of the above, it is respectfully submitted that the present application is in condition for allowance. Reconsideration of the present application and a favorable response are respectfully requested.

No additional claim fees should be generated by this paper. However, the Commissioner is hereby authorized to charge any fee deficiency associated with this paper to Deposit Account No. 04-1420.

Respectfully submitted,

DORSEY & WHITNEY LLP
Customer Number 25763

Date: February 21, 2006

By: 
Alicia Griffin Mills, Reg. No. 46,933
(612) 492-6314